BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

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In The Matter of Charges and	
Complaint Against	**Case No. 08-29655-1**
STELLA YI CHOU, M.D.,	**FILED**
	FEB 22 2010
Respondent.	**NEVADA STATE BOARD OF MEDICAL EXAMINERS**

SECOND AMENDED COMPLAINT

The Investigative Committee of the Nevada State Board of Medical Examiners, composed of Charles N. Held, M.D., Chairman, Benjamin Rodriguez, M.D., Member, and Jean Stoess, M.A., Member, at the time of the filing of the complaint and first amended complaint, by and through Lyn E. Beggs, General Counsel for the Nevada State Board of Medical Examiners, having a reasonable basis to believe that Stella Yi Chou, M.D., hereinafter referred to as Dr. Chou, has violated the provisions of NRS Chapter 630, hereby issues its Second Amended Complaint, stating the Investigative Committee's charges and allegations, as follows:

1. Dr. Chou was licensed in active status to practice medicine in the State of Nevada (license no. 11344), at all times alleged herein, was so licensed by the Nevada State Board of Medical Examiners, pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes.

2. Valley Eye Center, 2931 Tenaya Way, Suite 204, in Las Vegas, Nevada originally opened in approximately August 2006 as "Clinique Optique". On or about October 5, 2006, Valley Eye Center began providing refractive surgery to correct refractive errors of the eye, more commonly known as "Lasik." The practice of Valley Eye Center was limited exclusively to the providing of Lasik.

3. The owner and administrator of the facility was purported to be Anamika Jain, M.D. Dr. Anamika Jain is married to Vikas Jain. Dr. Anamika Jain is not an ophthalmologist. Dr. Anamika Jain's specialty is shown in the Board's records to be Rehabilitation Medicine.

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

4. Vikas Jain had been licensed as a physician, specializing in ophthalmology, in Ohio, New York, and Florida. On November 14, 2005, the State Medical Board of Ohio revoked Vikas Jain's license to practice medicine. The Ohio Board's order found, among other things, that Vikas Jain had committed ophthalmological malpractice upon 22 specific patients, resultant from his failure to properly preoperatively assess the patients, resulting in ophthamological surgical errors that caused harm to the 22 patients. Subsequent to the revocation of his license by the State Medical Board of Ohio, the medical licenses of Vikas Jain in New York and Florida were surrendered after both states filed disciplinary proceedings against him based upon the Ohio action. Vikas Jain has no active license to practice medicine in any state in the United States. Vikas Jain never applied for a license to practice medicine in Nevada.

5. In October 2006, Dr. Chou began performing refractive eye surgeries at Valley Eye Center. Dr. Chou lives in Utah and never maintained a residence or presence in Nevada except that she performed Lasik surgeries at Valley Eye Center. Dr. Chou was not employed by Valley Eye Center; instead, Dr. Chou was an independent contractor, placed at Valley Eye Center through CompHealth, a physician recruiting and temporary placement service based out of Salt Lake City, UT. Dr. Chou was not at Valley Eye Center on a fulltime basis, rather she would fly into Las Vegas at regularly scheduled intervals to perform Lasik procedures and provide some post-operative care.

6. During the period of time that Dr. Chou performed Lasik surgeries at Valley Eye Center, the normal practice was that patients were seen at Valley Eye Center for pre-operative measurements and assessments in preparation for Lasik and to determine if patients were good candidates for the procedure and would then be scheduled for a Lasik procedure with Dr. Chou. October 2006 and March 2007, Dr. Chou performed Lasik surgeries at Valley Eye Center; however there was no licensed ophthalmologist or optometrist on the premises to perform pre-operative evaluations or assessments in her absence. Pre-operative evaluations were conducted often by non-licensed individuals, medical assistants, and although many pre-operative measurements and assessments could be preformed by these medical assistants at the direction of a licensed ophthalmologist or optometrist, some of the pre-operative evaluations could only be performed by a licensed optometrist or ophthalmologist.

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

7. Between March 2007 and May 2008 while Dr. Chou was at Valley Eye Center, Dr. Elise Millie, a licensed optometrist was on the staff of Valley Eye Center and did perform some pre-operative evaluations and assessments of potential Lasik patients, and if appropriate would schedule patients for Lasik surgery on days that Dr. Chou would be performing surgeries at Valley Eye Center.

8. During the time that Dr. Chou was at Valley Eye Center, many of the preoperative examinations, measurements and assessments were completed by Vikas Jain who was known to sometimes represent himself to patients as "Dr. Ken." Vikas Jain would perform preoperative assessments, measurements and examinations of patients' eyes, in part to determine their candidacy for Lasik surgery. Dr. Chou was not present at Valley Eye Center when medical assistants performed measurements or when Vikas Jain performed medical examinations and/or assessments on patients' eyes, and she exerted no supervisory oversight or control over the work of Vikas Jain or the medical assistants.

9. Dr. Chou would normally fly into Las Vegas the evening before surgeries were to be performed. Upon arrival in Las Vegas, Dr. Chou would be presented with a pile of patient files for the surgeries that were scheduled for the following days and she would review the information in the files. Many of the preoperative assessments, measurements and evaluations contained in the patient files would have been performed by medical assistants and/or Vikas Jain.

10. The following day and sometimes for multiple days, Dr. Chou would perform Lasik eye surgeries using a Nidek machine leased by Valley Eye Center. Nidek machines require the use of precise measurements to assure the proper outcome of the surgery and may not be used on dilated eyes. Prior to performing surgery on patients scheduled for Lasik procedures, Dr. Chou did not perform an independent evaluation of each patient to determine whether the patient was an appropriate candidate for Lasik surgery or if any contraindications to the surgery existed prior to performing the surgical procedure and would make a final diagnosis and decision to proceed forward with the procedure solely on the information provided to her by others; often by medical assistants and/or Vikas Jain only.

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11. Dr. Chou also failed to meet privately and independently with each patient to discuss their impending surgery and to discuss the risks and benefits of the procedure prior to the patients consenting to the surgical procedure, and instead would often meet with a number of patients at a time in a group setting and often a sedative would be provided to patients prior to Dr. Chou discussing the procedure with patients prior to the surgery.

12. Pursuant to this normal mode of practice, Dr. Chou performed Lasik surgery upon the eyes of Patients A, B, C, D, E, F, G, H, I, J, performing no independent evaluation of the patients prior to performing Lasik surgery.

Count I

13. Patient A had double vision and wore glasses with prisms. On or about February 7, 2007, Patient A presented to Valley Eye Center for Lasik surgery which was performed by Dr. Chou in the manner described above.

14. NAC 630.040 defines malpractice as failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.

15. NRS 630.301(4) provides that malpractice is grounds for initiating disciplinary action against a licensee.

16. Dr. Chou failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances, by physicians in good standing practicing ophthalmology in Nevada when she performed the Lasik surgery upon Patient A in the manner described.

17. Dr. Chou's treatment of Patient A as alleged constitutes a violation of NRS 630.301(4) and thus she is subject to disciplinary action being taken against her.

Count II

18. On or about January 12, 2007, Patient B presented to Valley Eye Center for Lasik surgery which was performed by Dr. Chou in the manner described above.

19. During a post-operative visit, Patient B was seen by Vikas Jain who wrote a prescription for Patient D on Dr. Chou's prescription pad for Prednisone and forged Dr. Chou's name on the prescription in the presence of Patient B.

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OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

20. Nevada Administrative Code section 630.040 defines malpractice as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

21. Nevada Revised Statute section 630.301(4) provides that malpractice is grounds for initiating discipline against a licensee.

22. Dr. Chou failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances, by physicians in good standing practicing ophthalmology in Nevada when she performed the Lasik surgery upon Patient B in the manner described. Additionally, Dr. Chou allowed her prescription pad to be used by an employee of Valley Eye Center, including the issuance of a prescription for Patient B on which Dr. Chou's signature was forged apparently with Dr. Chou's knowledge and assent.

23. Dr. Chou's treatment of Patient B as alleged constitutes a violation of NRS 630.301(4) and thus she is subject to disciplinary action being taken against her.

Count III

24. On or about January 12, 2007, Patient C underwent Lasik surgery to correct nearsightedness at Valley Eye Center. The procedure was performed by Dr. Chou pursuant to the procedures set forth above.

25. Nevada Administrative Code section 630.040 defines malpractice as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

26. Nevada Revised Statute section 630.301(4) provides that malpractice is grounds for initiating discipline against a licensee.

27. Dr. Chou failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances by physicians in good standing practicing ophthalmology in Nevada when she performed the Lasik surgery upon Patient C in the manner described above and accordingly her care of Patient C as alleged constitutes a violation of NRS 630.301(4) and thus she is subject to disciplinary action being taken against her.

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OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

Count IV

28. On or about March 9, 2007, Patient D presented to Valley Eye Center for Lasik surgery. The procedure was performed by Dr. Chou pursuant to the procedures set forth above.

29. Nevada Administrative Code section 630.040 defines malpractice as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

30. Nevada Revised Statute section 630.301(4) provides that malpractice is grounds for initiating discipline against a licensee.

31. On or about March 6, 2008, Patient D returned to Valley Eye Center for an enhancement procedure due to her eyesight being worse than prior to the surgery. Again, Dr. Chou performed the procedure pursuant to the normal method of practice described above.

32. Patient D developed an inflammation of her eyes post-operatively. Dr. Chou allowed Dr. Millie, an optometrist to write a prescription for Patient D on Dr. Chou's prescription pad for oral and topical steroids. Dr. Millie forged Dr. Chou's signature on the prescription and presented the forged prescription to Patient D apparently with Dr. Chou's knowledge and assent.

34. Dr. Chou failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances by physicians in good standing practicing ophthalmology in Nevada when she performed the Lasik surgery upon Patient D in the manner described and failed to personally perform any pre- or post-operative examinations and allowed her prescription pad to be used by another individual.

35. Dr. Chou's treatment of Patient D as alleged constitutes a violation of NRS 630.301(4) and thus she is subject to disciplinary action being taken against her.

Count V

36. On or about June 29, 2007, Dr. Chou performed Lasik surgery on Patient E at Valley Eye Center pursuant to the procedures discussed above.

37. Nevada Administrative Code section 630.040 defines malpractice as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

38. Nevada Revised Statute section 630.301(4) provides that malpractice is grounds for initiating discipline against a licensee.

39. Dr. Chou failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances by physicians in good standing practicing ophthalmology in Nevada when she performed the Lasik surgery upon Patient E in the manner described and accordingly her care of Patient E as alleged constitutes a violation of NRS 630.301(4) and thus she is subject to disciplinary action being taken against her.

Count VI

40. On or about June 9, 2007, Patient F presented to Valley Eye Center for Lasik surgery which was performed by Dr. Chou pursuant to the procedures described above Dr. Chou failed to perform any independent pre-operative examination of Patient H.

41. Nevada Administrative Code section 630.040 defines malpractice as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

42. Nevada Revised Statute section 630.301(4) provides that malpractice is grounds for initiating discipline against a licensee.

43. Dr. Chou failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances by physicians in good standing practicing ophthalmology in Nevada when she performed the Lasik surgery upon Patient F in the manner described and accordingly her care of Patient F as alleged constitutes a violation of NRS 630.301(4) and thus she is subject to disciplinary action being taken against her.

Count VII

44. On our about June 28, 2007, Patient G presented to Valley Eye Center for Lasik surgery which was performed by Dr. Chou pursuant to the procedures described above.

45. Nevada Administrative Code section 630.040 defines malpractice as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

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46. Nevada Revised Statute section 630.301(4) provides that malpractice is grounds for initiating discipline against a licensee.

47. Dr. Chou failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances by physicians in good standing practicing ophthalmology in Nevada when she performed the Lasik surgery upon Patient G in the manner described and accordingly her care of Patient G as alleged constitutes a violation of NRS 630.301(4) and thus she is subject to disciplinary action being taken against her.

Count VIII

48. On or about January 3, 2008, Patient H presented to Valley Eye Center for Lasik surgery. Pursuant to the procedures as described above.

49. Nevada Administrative Code section 630.040 defines malpractice as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

50. Nevada Revised Statute section 630.301(4) provides that malpractice is grounds for initiating discipline against a licensee.

51. Dr. Chou failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances by physicians in good standing practicing ophthalmology in Nevada when she performed the Lasik surgery upon Patient H in the manner described and accordingly her care of Patient H as alleged constitutes a violation of NRS 630.301(4) and thus she is subject to disciplinary action being taken against her.

Count IX

52. On or about March 13, 2008, Patient I presented to Valley Eye Center for Lasik surgery on her left eye. Dr. Chou performed Lasik surgery pursuant to the procedures described above.

53. Nevada Administrative Code section 630.040 defines malpractice as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

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54. Nevada Revised Statute section 630.301(4) provides that malpractice is grounds for initiating discipline against a licensee.

55. Dr. Chou failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances by physicians in good standing practicing ophthalmology in Nevada when she performed the Lasik surgery upon Patient I in the manner described and accordingly her care of Patient I as alleged constitutes a violation of NRS 630.301(4) and thus she is subject to disciplinary action being taken against her.

Count X

56. On or about March 27, 2008, Patient J presented to Valley Eye Center for Lasik surgery for the correction of farsightedness. Dr. Chou performed Lasik surgery pursuant to the procedures described above.

57. Nevada Administrative Code section 630.040 defines malpractice as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

58. Nevada Revised Statute section 630.301(4) provides that malpractice is grounds for initiating discipline against a licensee

59. Dr. Chou failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances by physicians in good standing practicing ophthalmology in Nevada when she performed the Lasik surgery upon Patient J in the manner described and accordingly her care of Patient J as alleged constitutes a violation of NRS 630.301(4) and thus she is subject to disciplinary action being taken against her.

Count XI

60. The diagnosis and determination of candidacy for Lasik surgery and several of the pre-operative evaluations performed to make this diagnosis and determination are the practice of medicine and may only be performed by a licensed ophthalmologist or optometrist.

61. Dr. Chou knew that Vikas Jain was not a licensed physician or optometrist in Nevada and was aware that from August 2006 through March 2007, there was no licensed ophthalmologist

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OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

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Reno, Nevada 89502
(775) 688-2559

or optometrist at Valley Eye Center performing pre-operative assessments or evaluations or her Lasik surgery patients.

62. In performing Lasik surgeries at Valley Eye Center, Dr. Chou relied often, solely upon preoperative assessments, evaluations and candidacy diagnoses made by persons whom Dr. Chou knew were not physicians or optometrists licensed in Nevada. In so doing, Dr. Chou aided, assisted, and knowingly allowed unlicensed persons, namely Vikas Jain to engage in the practice of medicine contrary to the provisions of NRS chapter 630.

63. Dr. Chou's aiding, assisting, and knowingly allowing Vikas Jain to perform pre-operative evaluation on patients' eyes that could only be performed by an ophthalmologist or optometrist and allowing Vikas Jain to make diagnoses and determinations regarding the candidacy of some patients for Lasik surgery, acts which constitute the practice of medicine in Nevada, constituted a violation of NRS 630.305(1)(e) and accordingly Dr. Chou is subject to disciplinary action being taken against her.

Count XII

64. Vikas Jain had had all of his medical licenses revoked as a result of his substandard ophthalmological Lasik performed upon at least 22 patients in Ohio who had suffered substantial harm resultant from his substandard care. Vikas Jain, therefore, had been found by a board of his peers to be unqualified to perform ophthalmic functions related to Lasik surgery.

65. NRS 630.305(1)(f) provides that delegating responsibility for the care of a patient to a person a licensee knows, or has reason to know, is not qualified to undertake that responsibility is grounds for initiating disciplinary action against the licensee.

66. Dr. Chou delegated responsibility for preoperative assessments, evaluations and diagnoses of patients' eyes to Vikas Jain, meaning that she delegated responsibility for the care of her patients to an individual who was known to be unqualified to be involved in the care of patients seeking Lasik.

67. Dr. Chou's delegating the responsibility for preoperative assessments and evaluations that should only be performed by a licensed ophthalmologist or optometrist and diagnosis and

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determination of candidacy for the procedure to Vikas Jain when she knew him to be unqualified to perform such tasks constitutes a violation of NRS 630.350(1)(f).

Count XIII

68. NRS 630.306(2)(b) provides that engaging in conduct with the Board has determined is a violation of the standards of practice established by regulation of the Board is grounds for initiating discipline against a licensee.

69. NAC 630.230(1)(i) provides that a physician shall not fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician or physician assistant.

70. Dr. Chou did not provide any, let alone adequate, supervision of any of the medical assistants at Valley Eye Center as she was only in the office on Fridays and part of Saturdays during which time she performed Lasik surgeries and some post-operative care. Dr. Chou had no involvement of the training or determining the competency of any of the medical technicians at Valley Eye Center.

71. Accordingly Dr. Chou did not provide adequate supervision to medical assistants she allowed to assist in the care of patients and thus she is in violation of NAC 630.230(1)(i) and NRS 630.306(2)(b) and is subject to discipline.

Count XIV

72. NRS 630.301(9) provides that engaging in conduct that brings the medical profession into disrepute is grounds for initiating discipline against a licensee.

73. Dr. Chou's acts averred in this Complaint constitute conduct that brings the medical profession into disrepute, and, thus, constitutes a violation of NRS 630.301(9) for which Dr. Chou is subject to discipline.

Count XV

74. NRS 630.306(7) provides that continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field is grounds for initiating discipline against a licensee.

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OFFICE OF THE GENERAL COUNSEL
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75. Dr. Chou's acts as averred in this Complaint show a continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field while engaged in practice at Valley Eye Center for which Dr. Chou is subject to discipline.

WHEREFORE, the Investigative Committee prays:

1. That the Nevada State Board of Medical Examiners hold a formal hearing commencing on March 29, 2010;

2. That the Nevada State Board of Medical Examiners gives Dr. Chou notice of the charges herein against her, the time and place set for the hearing, and the possible sanctions against her;

3. That the Nevada State Board of Medical Examiners determine what sanctions it determines to impose for the violation or violations committed by Dr. Chou; and

4. That the Nevada State Board of Medical Examiners make, issue and serve on Dr. Chou its findings of facts, conclusions of law and order, in writing, that includes the sanctions imposed; and

5. That the Nevada State Board of Medical Examiners take such other and further action as may be just and proper in these premises.

DATED this 22nd day of February, 2010.

THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
Lyn E. Beggs
General Counsel and Attorney for the Investigative Committee

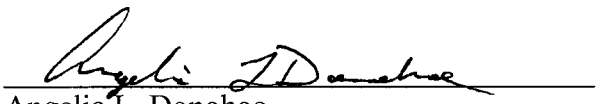
OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 22nd day of February 2010, I served a file copy of the SECOND AMENDED COMPLAINT, and copy of the SECOND AMENDED PATIENT DESIGNATION, by mailing via USPS regular mail to the following:

Katherine L. Turpen, Esq.
John Cotton & Associates
2300 West Sahara Ave., Ste. 420
Las Vegas, NV 89102

Dated this 22nd day of February 2010.



Angelia L. Donohoe
Legal Assistant

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559